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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,607	12/08/2003	Timothy S. Fanning	3573-1000.2	4019

7590
Timothy Engling
2420 Dorina Drive
Northfield, IL 60093

12/26/2006

EXAMINER

HENDERSON, MARK T

ART UNIT	PAPER NUMBER
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3722

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/26/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/730,607	Applicant(s) FANNING ET AL.	
	Examiner Mark T. Henderson	Art Unit 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-17 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7 is/are rejected.
- 7) ☐ Claim(s) 4, 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED OFFICE ACTION

Faxing of Responses to Office Actions

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing or responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers, which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

1. Claims 1, 4, 8, 10 and 15 have been amended for further examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5, 8 and 9 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Hegarty (5,509,745).

Hegarty discloses in Fig. 10, 11, 17 and 18, a holder for flappable pages comprising: a panel (2) having a face surface (2a) and a back surface (2B); a ring system (100) attached on the face surface (130) of the panel (see Fig. 18); a cover (90 or 110) with an aperture (43) adjacent the ring system; hingedly connected leaves (112); a plurality of rings having two ring halves (39) attached to one of the leaves (112); and a locking device (150) that locks with a rotational force in a direction perpendicular to the face surface of the panel and presses against the leaves; the locking device includes an lip area (52) larger than the aperture of the cover so the locking device is not removed from the cover (see Fig. 13 and 14); and wherein the locking device includes a shaped aperture (aperture which allows 94 to translate/rotate through 92 as seen in Fig. 8-10, and in Col. 8, lines 42-46) in an end opposite to an end having the area larger than the aperture; and wherein the leaves form an angle with respect to each other so that the leaves are parallel; wherein the locking device when inserted in the cover prevent the leaves from rotating (through locking portion (31) as described in supporting art (Patriquin 4,009,599) as stated in Col. 8, lines 30-34).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 6 and 7 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Hegarty.

Hegarty discloses a holder comprising all the elements as claimed in Claims 1 and 5, and as set forth above. Hegarty further discloses wherein the locking device is part of a three-ring binder. However, Hegarty does not disclose wherein the shaped aperture is a hexagon.

In regards to **Claim 2**, it would have been obvious to place the majority of the locking device at any desired location when locked, since it has been held that rearranging parts of an invention involves only routine skill in the art. Therefore, it would have been obvious to place the locking device at any desired translated location since applicant has not disclosed the criticality of having the locking device at a particular location when locked, and would function equally as well at any location, as long as the device prohibits binding system from moving.

In regards to **Claim 6**, it would have been an obvious matter of design choice to make the shaped aperture of the locking mechanism of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. Therefore, it would have been obvious to make the shaped aperture of the locking mechanism of whatever shape or form as desired, since applicant has not disclosed the criticality of having a particular shape, and invention would function equally as well with any shape.

Allowable Subject Matter

4. Claims 10-17 are allowed.
5. Claims 4, 8, and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed on November 2, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the Hegarty reference does not disclose the locking device having a "rotational force wherein the lock traverses in a direction perpendicular to the face surface of the panel", the examiner submits that Hegarty does indeed disclose a rotational and a translational force (when key is placed in hole and turned "Col. 8, lines 43-46, and further explained through the Patriquin reference in Col. 5, lines 1-9).

Therefore, examiner's rejection has been maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Kaneda reference discloses a similar holder having threaded rotation cylinder to open and close binder leaves.

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Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571) 272-4477, and informal fax number is (571) 273-4477. The examiner can be reached on Monday-Friday from 9:00AM to 3:45PM. If attempts to reach the examiner by telephone are unsuccessful, the Examiner Supervisor, Monica Carter, can be reached at (571) 272-4475. The formal fax number for TC 3700 is (571) 273-8300.



MTH

December 11, 2006


MONICA CARTER
SUPERVISORY PATENT EXAMINER